

REMARKS

Claims 1-33 are pending in the current application. Applicants have cancelled claim 21 and amended claims 22 and 23. Reexamination and reconsideration of pending claims are respectfully requested.

Drawings

The Examiner noted that the August 14, 2002 facsimile transmission of the drawing correction to FIG. 1 was received in black and white. Per the Examiner's request, enclosed herewith is a similar version of FIG. 1 including the PRIOR ART notation in red ink, attached hereto as Exhibit A.

§ 112

The Examiner rejected claims 21-23 as not being in compliance with 35 U.S.C. § 112. Applicants have cancelled claim 21 and have amended claims 22 and 23 to correct minor dependency and wording errors, and Applicants submit that all claims are allowable under 35 U.S.C. § 112.

§ 103

The Examiner rejected claims 1, 4, 7, 8, 9, 24, 26, 28, 29, 30, 31, and 32 under 35 U.S.C. § 103(a) based on Krantz, U.S. Patent 6,248,988 ("Krantz '988" or "Krantz"), in view of Bishop. The Examiner rejected Claims 21-23 under 35 U.S.C. § 103(a) based on Krantz in view of Kerstens in view of Bishop. Applicant has cancelled claim 21. The Examiner further rejected Claims 12-15 and 17-23 under 35 U.S.C. § 103(a) as obvious over Krantz in view of Kerstens. Based on the record in the present case, the Krantz reference is considered a § 102(e) reference.

Krantz '988 is assigned to KLA-Tencor Corporation, of San Jose, California. The present application is also assigned to KLA-Tencor Corporation, of San Jose, California, and the assignment is recorded at the U.S.P.T.O. at Reel 010969, Frame 0411. Thus the Krantz '988 patent and the present application are commonly assigned.

Statement of Common Ownership

The present claimed invention and the Krantz '988 patent were commonly owned by or subject to an obligation of assignment to KLA-Tencor Corporation at the time the claimed invention was made.

According to 35 U.S.C. § 103(c),

Subject matter developed by another person, which qualifies as prior art only under one or more subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

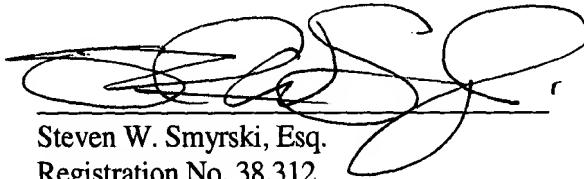
Thus all § 103 claim rejections in the present application based in part on Krantz are improper in view of § 103(c). Applicants disagree with various arguments presented in the Office Action, but removal of Krantz as a § 103 reference renders those arguments moot.

CONCLUSION

In view of the foregoing, it is respectfully submitted that all claims of the present application are in condition for allowance. Reexamination and reconsideration of all of the claims, as amended, are respectfully requested and allowance of all the claims at an early date is solicited.

Should it be determined for any reason an insufficient fee has been paid, please charge any insufficiency to ensure consideration and allowance of this application to Deposit Account 502026.

Respectfully submitted,



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VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE DRAWINGS

Included herewith as Exhibit A is a copy of amended FIG. 1 including the PRIOR ART notation in red ink.

IN THE CLAIMS

Claim 21 has been cancelled.

Claim 22 has been amended as follows:

22. (Amended) The specimen inspection system of claim 12, wherein said pinhole mask is mounted adjacent to [a] the time delay and integration charge coupled device.

Claim 23 has been amended as follows:

23. (Amended) The specimen inspection system of claim [21] 12, further comprising a focusing lens, wherein said focusing lens receives light energy from said pinhole mask and focuses light energy onto said time delay and integration charge coupled device.

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